



**The Comptroller General  
of the United States**

Washington, D.C. 20548

*Pogany PL*

## **Decision**

**Matter of:** Western Medical Personnel, Inc.

**File:** B-227991

**Date:** September 28, 1987

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### **DIGEST**

Contracting agency in evaluating proposals may consider evidence obtained from sources outside the proposals so long as the use of extrinsic evidence is consistent with established procurement practice. Thus, where the solicitation contains "references" as an evaluation criterion, the contracting agency may consider the unsatisfactory past performance of an offeror under a recent contract with the agency and, in effect, furnish its own reference in evaluating the offeror's proposal.

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### **DECISION**

Western Medical Personnel, Inc. protests the award of a contract to Staff Extenders (SE), under request for proposals (RFP) No. DADA01-87-R-0014, issued by Letterman Army Medical Center (LAMC), Presidio of San Francisco, California. The RFP was a total small business set-aside for providing respiratory therapy services at LAMC on a requirements basis for a period of 1 year. Western contends that its proposal was the most advantageous to the government and that the Army's evaluation was unreasonable and inconsistent with the solicitation's evaluation criteria because the Army admittedly downgraded Western's proposal based on evidence outside Western's proposal. Specifically, Western complains that its proposal was downgraded by the Army evaluators based on their personal knowledge of Western's allegedly unacceptable past performance at LAMC under a recent prior contract.

We deny the protest.

The RFP provided that award would be made to the offeror whose proposal is technically most acceptable and has the lowest overall cost to the government. For award purposes, the solicitation listed the following evaluation criteria, in descending order of importance:

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1. Management Factors
  - a. Standards used to determine Respiratory Therapy Quality
  - b. Quality Control Plan
  - c. Experience level of management
2. References
  - a. Minimum of three hospitals to be verified by LAMC
3. Performance Factors
  - a. Planned staffing procedures
  - b. Contingency plan for unexpected absences
  - c. Accessibility of management and management responsiveness
4. Recruiting Procedures
  - a. Agency internal respiratory therapy compensation
5. Price

Five firms submitted proposals. After evaluation of proposals, the Army determined that SE had submitted the best technical proposal, which had received the highest total evaluated points, and had also offered the lowest overall price. Accordingly, the Army awarded the contract to that firm. This protest followed.

Western states that it has extensive experience in respiratory services and that it had submitted a fully acceptable proposal, and complains that it lost the competition because its proposal was downgraded by the Army evaluators due to allegedly poor performance under its prior contract with LAMC. The Army admits that its evaluators downgraded Western's proposal based on their knowledge of Western's unacceptable past performance and argues that it is proper for an agency to consider a firm's past performance under other contracts where the solicitation calls for the evaluation of an offeror's management or experience.

As discussed below, based on the specific factual circumstances of this case, we agree with the Army that it was not precluded during evaluation of proposals from considering evidence outside Western's proposal with respect to the RFP's evaluation criterion, "references," which we find dispositive of this case.

The RFP listed "references" as the second major evaluation criterion. Under this criterion, SE received very high scores and Western received very low scores. The evaluation

documents confirm that the Army significantly downgraded Western's proposal under this criterion because of allegedly poor performance under its recent prior contract. For example, one evaluator commented that "previous experience [with Western] at LAMC has been disastrous." Another evaluator commented that "our previous experience [with Western] is lousy."

Thus, the principal issue presented is whether an agency's technical evaluators can consider, in evaluating proposals, their own personal knowledge of the prior performance of an offeror where the solicitation contains "references" as an evaluation criterion. We hold that they can do so. Generally, evaluators are not required to refer to other agencies or to materials outside the proposal to verify matters which should have been described in the proposal. Advanced ElectroMagnetics, Inc., B-208271, Apr. 5, 1983, 83-1 CPD ¶ 360. However, we have also stated that we see nothing improper where a contracting activity in evaluating proposals considers evidence obtained from sources outside the proposal so long as the use of extrinsic evidence is consistent with established procurement practice. Univox California, Inc., B-210941, Sept. 30, 1983, 83-2 CPD ¶ 395.

Here, the solicitation required that references be provided by offerors. A reference is a "person to whom inquiries as to character or ability [of a firm] can be made." Webster's New Collegiate Dictionary, (G. & C. Merriam Co. 1977). Since a reference generally gives his opinion, we see nothing improper in evaluators giving their own opinions, as any other references, to aid in the evaluation of proposals. Accordingly, we uphold the agency's consideration of Western's prior performance during the course of its evaluation of references.

Additionally, the record shows that even if Western would have received a perfect score in every other category, it still would have lost the competition to SE, both in technical scoring and in price. Thus, there is no basis to conclude that downgrading by the Army in the other areas could have prejudiced Western by depriving the firm of an award to which it was otherwise entitled. See Employment Perspective, B-218338, June 24, 1985, 85-1 CPD ¶ 715; Lingtec, Inc., B-208777, Aug. 30, 1983, 83-2 CPD ¶ 279.

Consequently, we need not consider these other areas because Western would have lost the competition in any event based on its very low scores under the evaluation criterion, "references."

The protest is denied.

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General Counsel